MINORITY REPORT.

Mr. BRANCH, a member of the select committee, to whom was referred the message of the President of the 8th of January, by leave of the House, presents the reasons of his non-concurrence with the committee in recommending the passage of "a bill to be entitled 'An act further to provide for calling forth the militia of the United States in certain cases.'"

The bill is direct and explicit, and is in the following words:

A bill to be entitled "An act further to provide for calling forth the militia of the United States in certain cases."

Be it enacted, &c., That it shall be lawful for the President of the United States, whenever and as often as in his opinion it shall become necessary, to call forth the militia of all or any of the States of the United States, or to accept the services of volunteers to such extent as may be required to protect and defend the forts, magazines, arsenals, dock yards, navy yards, public buildings, or other property of the United States, and to recover the possession of any such forts, magazines, arsenals, dock yards, navy yards, public buildings, or other property of the United States, which has been, or may hereafter be, unlawfully seized or taken possession of by any combination of persons whatever. And the provisions of "An act authorizing the employment of the land and naval forces of the United States in cases of insurrections," approved March 3, 1807, and all existing laws and regulations relating to the actual service of the militia of the United States, shall be applicable to the employment of the same under the provisions of this act.

The militia force thus placed at the disposal of the President amounts, by the latest returns, to 3,163,711 men, and, in addition, he can accept as many volunteers at home or from abroad as the money and credit of the government can command.

The bill is a declaration of war against those States which, having seceded, have taken possession of the forts and other public property within their limits; for the President will, of course, construe it into an unequivocal expression of the will of Congress that he shall forthwith proceed to recover possession by the use of warlike means. Negotiations are eschewed, and perhaps the committee would consider it an impeachable offence for the President or any other executive officer to entertain negotiations on the subject. Force and nothing but force can be thought of to vindicate the national honor and recover possession of the national property.

If the President should for a moment doubt whether Congress is willing to permit a resort to milder means than the vigorous application of force, that doubt will be removed when he reflects that the committee which reports this bill has been specially charged by the House to inquire and report whether he is or has, at any time, been holding communication with the seceding States on this and kindred

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subjects, which inquiry either looks to instituting an impeachment, or has no legitimate object at all.

When the President finds himself in possession of the whole military resources of the nation, almost without limit or restriction, he will posses an amount of power which has never before been conferred on any man in America. Our beloved Washington never received from Congress a greater mark of its confidence, and in the darkest days of the revolution, and the brightest days of his transcendent glory, never received at its hands so much power sustained by such vast physical forces. The incumbent President, who, by his forbearance and moderation, has done so much to keep the country out of the vortex of civil war, might be safely invested with much power, because he has shown that he will use it wisely and for the preservation of peace. But neither he nor any other human being ought to be intrusted with so much as this bill proposes to confer. Such a mark of confidence, especially coming from those who have not generally approved the principles on which he has, for nearly four years, administered the government, could not fail to be gratifying to him personally, but it would surely fill his mind with gloomy forebodings of the future of our country. When it is openly proposed in Congress by one individual to establish a military dictatorship, and under a feverish excitement captains of armed bands excite an enthusiasm in the breasts of the people, of which Washington, during his seven years of patient endurance and brave suffering in the cause of liberty, was never the object—when he sees throughout one half the Union public meetings and legislative bodies, and private persons who do not themselves expect to participate in the dangers and sufferings of war, urging measures of violence—and when he sees Congress drawn into the vortex of popular excitement, and under the same morbid passion enacting this extraordinary law, his heart will be grieved at the decay of that jealousy of power, and especially of military power, which made us a free people, and which alone can save us from being hurried into military despotism by mobish enthusiasm.

Some of the extraordinary features of the bill will be brought to the attention of the House.

1. There is no limit imposed on the number that may be called into service.

The only precedent for this is in the act of May 23, 1798, when an invasion by the revolutionary government of France was apprehended. And in that case the President was only empowered to exercise the authority, "in the event of a declaration of war against the United States, or of actual invasion of their territory by a foreign power, or of imminent danger of such invasion discovered, in his opinion, to exist, before the (then) next session of Congress." The urgent need which might occur during the recess, and the short duration of the authority, (only six months,) sufficiently distinguish that from the present case. In all other cases a limit as to numbers has been prescribed, beyond which the President could not go, whatever might be the nature or the imminency of the danger.

Under the provisions of this bill the President can, at his discretion, call into the field every individual in the United States subject to

military duty. He may do more. If mercenaries will better serve his purposes than the free-born citizens of the United States, instead of calling out the militia, he can accept the services of as many Hessians and Swiss as he can hire to volunteer them.

Let it not be forgotten that every usurper claims that he is "executing the laws." And to retain or to regain possession of the public property will be an additional and generally a more plausible pretext than executing the laws for keeping an obedient army in service.

It is obvious that when the Constitution said "Congress shall have the power to provide for calling forth the militia to execute the laws of the Union, to suppress insurrection and repel invasion," it meant that Congress should continue to hold and exercise the power, and not by a few lines transfer it to the President, to be exercised by him with no limit or restriction except his discretion.

2. The bill embraces in its provisions all kinds of property claimed by the President to belong to the United States. It applies to an intrusion on the public lands as much as to the seizure of a fort or arsenal; to a horse or wagon or a lot of ground claimed by the President to belong to the United States, but held by an adverse claimant on a *bona fide* claim of title, just as much as to a ship-of-war captured by pirates. It releases the United States from all obligation to establish its claim to property adversely held by suit in court. A captain of dragoons is to be sheriff, judge, and jury, and his sabre the only process. "The roar of the cannon will be its eloquence, and powder and ball its argument."

The enormity will appear the greater when it is considered that the courts are open to the United States, and if it claims property adversely held, and its title is valid, it can sue and dispossess the occupant after a fair trial. But if he is turned out by violence, he can have no legal investigation into his claim nor any redress for his injuries because the United States is not liable to suit in any court of justice.

The undersigned deems it just to himself to say that, for reasons which it is not necessary to recount here, he cannot justify and will not defend the conduct of the seceding States in taking possession of property which the United States had purchased and otherwise acquired with the express sanction of the respective States, and over which they had the faith of the States pledged that the federal government should be permitted to exercise exclusive jurisdiction.

But whilst doing justice to himself by this explicit declaration, he must also be permitted to do justice to the honorable men who are in the councils of those States, by reminding the House that the authorities of those States claim that by the act of secession the public property affixed to the soil and immoveably within their territorial limits legally reverts to and vests in the State governments, respectively, as the only remaining sovereign authority. If it is admitted that the effect of secession is to extinguish the federal authority, the claim is valid. Much of the very property in controversy was acquired by us by the application of the same principle. For instance, at the time we acquired Florida from Spain there were elaborate and costly fortifications at Pensacola, St. Mark's, and St. Augustine, which were the

property of the Spanish government. On the exchange of flags, the new sovereign succeeded to that and all other public property as the successor of the former sovereign. Probably there is not a seaboard State of the Union in which there is not more or less property which the United States acquired as the successor to the former sovereign, that former sovereign being Great Britain, or Spain, or France, or Mexico. It may be said that in most of those cases we paid for the property. That is true; but it does not destroy the analogy of the cases. When Spain had yielded the sovereignty over Florida to us, a claim on her part to be continued in possession of the fortifications as proprietor would not have been listened to by us; indeed it would have been treated as an insult. We required them to be given up to us as her successors, and paid her for them. So the seceding States, claiming as they do that the sovereignty has been changed, assert their right to have possession of the public property within their limits, especially of that portion of it which is purely of a defensive character, and which has no value or significance except for their protection. Not claiming it as a conquest or by right of the strong hand, they have unequivocably expressed their willingness to pay for it to the uttermost farthing of its value whenever the government will entertain negotiations as to its value.

The undersigned is rejoiced that this government has thus far kindly but firmly refused to enter upon any negotiation looking to a permanent separation, and hopes that course will be adhered to until ample time has been given for, and all negotiations have been exhausted looking to a reunion of the States.

Whilst the undersigned regrets the precipitate action of the seceding States in seizing the public property, and pressing for an immediate recognition of their right to hold it, he must say that if the violent policy proposed by this bill shall be adopted, it will prove that those States acted wisely in making the most ample and prompt preparations to defend themselves, and in trusting in no degree to the forbearance of the federal government.

If the undersigned is correct in his statement of the grounds on which the seceding States have taken into their possession the public property within their limits, (and he does not doubt that his statement will be admitted to be correct,) it is evident that the act was the necessary sequence of secession, and that it was rightful if we admit, as those States claim, that secession changes the sovereignty over the property.

All the seizures made have been of real estate situated within the territorial limits of the State making the seizure, and of munitions of war which might be used against them. To large sums of money in the hands of public officers no claim has been made; the officers being allowed to pay it over to the federal government without molestation.

In this connexion a fact is worthy of notice which proves the sense of honor prevailing in those States. Many of their citizens holding commissions in the army and navy have, from a sense of duty and from inclination, resigned; but they have not sought in doing so to inflict injury on this government or to jeopardize its interests. In only one instance is it known that an officer has failed to discharge himself

of his trust by placing the property committed to him in a position of security before resigning.

In none of its features is the secession movement predatory. Confiscation has nowhere attended it. Those engaged in it have seen their private fortunes reduced by hundreds of millions of dollars, but they seem to have submitted cheerfully to the sacrifice in maintenance of what they believe to be rights essential to their security.

It is not an insurrection against the laws, but a withdrawal from the federal government of all right to make laws for them in the future. It is a revolution in the highest sense of the term, conducted in strict conformity with the representative principle, and in subordination to the will of all the people, expressed in due and legal form. History furnishes no instance of a revolution conducted with so much regularity and order, except that by which the old confederation was broken up and the present formed.

It would be trifling to single out one of the smallest incidents of such a movement, and, by making it prominent, endeavor to escape from looking at and dealing with the movement itself.

By curing secession we recover the public property. Will we, by recovering the public property, be any nearer curing secession?

The real question for our decision is, will we permit the secession of a portion of the States from the Union, or will we attempt to prevent it by military power?

If we intend to permit it, of course we will yield the forts. If we intend to prevent it by force, and have determined that we will not try conciliation, nor give time for palliatives, then let this bill be enacted into a law. If we have not yet determined what course shall be taken in the emergency, then let this bill be rejected, for it is a declaration of war—instant, stern, ferocious.

The undersigned having fully presented his views in regard to making war in the seceding States in a minority report which he presented to-day on the bill "further to provide for the collection of the duties on imports," will not repeat them here.

The civilized world must condemn the eager desire manifested in some of the northern States to shed the blood of the people of the south. But the people of the south know that the noisy braggarts who vapor forth their own courage, and parade on paper armed multitudes who will not obey them, will not be formidable on any fair field of battle.

Though such a spirit under a temporary frenzy may be painfully widespread at the north, the undersigned will not believe that the bulk of the sturdy, religious, civilized people of those States expect or demand of their representatives such legislation as is proposed in Congress. Let us bring together the system of measures proposed, (not by individual members, but by committees representing the majority of Congress,) that a judgment may be formed of them in the aggregate.

1. By a bill reported from the select committee of five their ports are to be closed to all foreign commerce, both inward and outward, so that they will not only be cut off from all supplies from abroad, but they will be unable to sell any portion of their cotton or other surplus productions, provided the law proves effective for its object.

2. By a bill reported from the Committee on the Post Office and Post Roads they are to be deprived of all postal facilities, so that they cannot communicate with the rest of the world nor with each other. This great instrument of civilization and social happiness is to be entirely withdrawn from the seceding States.

These two measures will entirely isolate them from others and from one another; and that fire and sword may complete the work, we have—

3. The bill now under consideration.

Bloodthirsty, revolutionary France never inflicted a worse scourge upon heroic La Vendée when it left to its inhabitants no alternative except to starve or to die nobly on the battle field.

Who can doubt that these cruel measures will initiate a civil war of unsurpassed barbarity, in which quarter will neither be asked nor granted?

And all this is to be done in the name of a fraternal Union, and to restore alienated affection.

In conclusion, the undersigned will express the hope that earnest efforts may be made to redress grievances, restore confidence, and reestablish the Union on a lasting basis. He cannot believe that such efforts would be vain. Whenever the hearts and minds of the people are right for reconciliation, the terms of reconciliation can be easily arranged. But they never will be right so long as there is cultivated a morbid desire for revenge, and men are indulging a vain and idle belief that they can chastise the discontented, and compel eight or fifteen States to remain in the Union against their wishes.

If we find that reconciliation is impossible, and that the States can no more live together under one government, let us separate in peace, and form other and more satisfactory arrangements. The object of government is the happiness of the governed, and no government ought to be maintained over large masses of mankind which does not in essentials promote their welfare and happiness. In the United States it cannot be, because we hold that governments "derive their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, [to promote the welfare and safety of the governed,] it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

All our institutions rest on these great principles; and when millions of people, occupying eight States, some of which have constitutions older than that of the United States, with a unanimity unparallelled in our history, and very far exceeding that which prevailed in our revolution, declare that they consider the existing government destructive of their happiness and dangerous to their security and prosperity, and that they intend to change it, it is idle to say they have no right to do so. It would be a crime against the principles of our fathers to marshal armies for the purpose of holding them in subjection.

The undersigned will not close without reminding the House that the act of March 2, 1833, commonly called the "Force Bill," was not

passed by Congress until a bill had been matured and passed to compromise the differences which had placed South Carolina in an attitude of hostility to the federal government. The two acts stand side by side on the statute book, approved by the President on the same day. It may well be doubted whether the statesmen of that time would have enacted the law if it had not been known that there would be no occasion to execute its provisions.

L. O'B. BRANCH.